

1 **TIFFANY & BOSCO, P.A.**

2 Gregory L. Wilde, Esq.
3 Nevada Bar No. 004417
4 212 South Jones Boulevard
5 Las Vegas, Nevada 89107
6 Telephone: 702 258-8200
7 Fax: 702 258-8787
8 nvbk@tblaw.com

9 Attorney for Movant,
10 BAYVIEW LOAN SERVICING, LLC, servicing agent for
11 The Bank of New York Mellon, as Trustee on Behalf of the
12 Certificateholders CWALT, Inc. Alternative Loan Trust
13 2004-36CB Mortgage Pass-Through Certificates, Series 2004-36CB

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:

Bk Case No.: 09-29123-btb

MELANI SCHULTE and
WILLIAM R. SCHULTE,

Jointly-administered cases:

Jointly Administered Debtors:
5218 MISTY MORNING LLC and
HOT ENDEAVOR LLC and
2704 SATTLEY LLC and
1341 MINUET LLC and
1708 PLATO PICO LLC and
2228 WARM WALNUT LLC and
9425 VALLEY HILLS LLC and
9500 ASPEN GLOW LLC and
CHERISH LLC and
SABRECO LLC and
KEEP SAFE LLC,

09-27238-BAM
09-27909-BAM
09-28513-BAM
09-31584-BAM
09-31585-BAM

[Jointly Administered Under Case No. 09-29123-btb]

Chapter 11

Debtors.

Honorable Mike K. Nakagawa

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1 **NOTICE RE: BREACH AND FAILURE TO COMPLY WITH**
 2 **TERMS OF CONFIRMED PLAN AND AGREED ORDER RESOLVING OPPOSITION TO**
 3 **DEBTORS' MOTION TO VALUE COLLATERAL, "STRIP OFF" AND MODIFY RIGHTS OF**
 4 **UNSECURED CREDITORS PURSUANT TO 11 U.S.C. §506(A) AND §1123 FOR THE REAL**
 5 **PROPERTY LOCATED AT 1701 EMPIRE MINE DRIVE, HENDERSON, NEVADA 89014**

6 Debtors have failed to remit payments in accordance with the terms of the Chapter 11 Plan
 7 confirmed by an order entered on March 8, 2012 (docket #912) and Agreed Order Resolving Opposition
 8 To Debtors' Motion To Value Collateral, "Strip Off" And Modify Rights Of Unsecured Creditors
 9 Pursuant To 11 U.S.C. §506(A) And §1123 For The Real Property Located At 1701 Empire Mine Drive,
 10 Henderson Nevada 89014 ("Agreed Order") entered by the Court on October 21, 2010, as docket no.
 11 779, and attached hereto as **Exhibit "A"**.

12 BAYVIEW LOAN SERVICING, LLC, servicing agent for The Bank of New York Mellon, as
 13 Trustee on Behalf of the Certificateholders CWALT, Inc. Alternative Loan Trust 2004-36CB Mortgage
 14 Pass-Through Certificates, Series 2004-36CB ("Secured Creditor" herein) is the current holder of a first
 15 deed of trust recorded on December 8, 2004, which secures a Note dated December 3, 2004, in the
 16 original principal amount of \$184,000.00. Said first deed of trust is secured by the subject property
 17 located at 1701 Empire Mine Drive, Henderson Nevada 89014 ("subject property").

18 Debtors filed the instant chapter 11 bankruptcy case on October 11, 2009. On December 29,
 19 2009, Secured Creditor's predecessor filed a Proof of Claim (claim no. 31), which lists \$12,775.09 in
 20 *pre-petition* arrears and a total claim of **\$179,633.34**, due as of the date of filing. Secured Creditor filed a
 21 Transfer of Claim on April 28, 2014 (docket no. 1064).

22 Pursuant to the Agreed Order, Secured Creditor's claim was reduced to a secured claim of
 23 **\$80,000.00** and was to be paid over thirty (30) years at **5.25%** interest, at monthly *principal and interest*
 24 payments of **\$441.76 each** commencing with the **November 1, 2010** post-petition monthly mortgage

1 payment. Debtors were also required to maintain insurance and pay the property taxes on the subject
2 property.

3 The Agreed Order further provides that if Debtors breach the terms of the Agreed Order, Secured
4 Creditor could send a fifteen (15) day written notice of default, and additional attorneys' fees of \$100.00
5 would be incurred for said notice of default. If upon the sixteenth (16th) day, Debtors failed to cure the
6 delinquency, Secured Creditor could submit an Affidavit of Default with an Order vacating the
7 automatic stay as to Secured Creditor, and upon entry of this Order, the automatic stay will be
8 immediately terminated and extinguished for all purposes. The instant Notice Re: Breach is being filed
9 in accordance with the terms of the Agreed Order.

10 Attached to this Notice Re: Breach as **Exhibit "B"** is a payment ledger showing all payments
11 received from the Debtors since November 1, 2010 (when the first payment was due pursuant to the
12 Agreed Order) ("Payment Ledger"). Pursuant to this Payment Ledger, Debtors are due and owing for
13 **thirty (30)** monthly *principal and interest* payments of **\$441.76 each** for the months of **March 2015**
14 through and including **August 2017**, for a total of **\$13,252.80**.

15 Although the Agreed Order required that Debtors maintain property taxes and insurance, Debtors
16 failed to do so. As such, Debtors are also due and owing for the escrow advances in the amount of
17 **\$6,179.58**, which were advanced by Secured Creditor since the effective date of the Agreed Order, (as
18 set forth in the Payment Ledger).

19 An additional **\$100.00** has been incurred, as allowed under the Agreed Order, for preparing and
20 filing the instant Notice Re: Breach. Thus, the amount in default under the Agreed Order as of August 3,
21 2017 is **\$19,532.38**, which includes \$13,252.80 for *principal and interest* payments, \$6,179.58 for
22 *escrow advances*, and \$100.00 for attorney fees. This default constitutes a breach of the Agreed Order.

23 The amount currently due to Secured Creditor, which also includes the attorney's fee in the
24 amount of \$100.00 that could be recovered from Debtors is **\$19,532.38**. Debtor must tender one (1)

1 check by **CERTIFIED FUNDS ONLY** made payable to Bayview Loan Servicing, LLC in the amount
2 of **\$19,532.38**. The payment made payable to Bayview Loan Servicing, LLC shall be sent via certified
3 mail and delivered to Secured Creditor's California counsel at: **Edward G. Schloss Law Corp., 3637**
4 **Motor Avenue, Suite 220, Los Angeles, CA 90034** and must be received within fifteen (15) calendar
5 days from service of this Notice.

6 IF SAID PAYMENT IS NOT REMITTED IN FULL ON OR BEFORE FIFTEEN (15)
7 CALENDAR DAYS FROM SERVICE OF THIS NOTICE TO THE ADDRESS INDICATED, Secured
8 Creditor may submit an Order to the Court to allow it to commence foreclosure proceedings on the
9 subject property generally described as a **1701 Empire Mine Drive, Henderson, Nevada 89014**. If
10 Counsel represents the Debtors, please note that under the Supreme Court Rules of the State of Nevada,
11 undersigned counsel are absolutely PROHIBITED from speaking directly with the Debtors in regard to
12 this Breach. The Debtors should contact his or her attorney for any advice on curing this default. If the
13 Debtors believe this default to be in error, then the Debtors MUST have their attorney contact
14 undersigned counsel prior to the deadline for payment or an Order may be entered against you.

15 Undersigned counsel are not at liberty to make additional deals with the Debtors on restructuring
16 the payments beyond what has already been agreed to. If the Debtors have any questions on this matter,
17 the Debtors must contact their ATTORNEY.

18 Submitted by:

19 Dated: August 15, 2017

20 Tiffany & Bosco, PA

21 /s/ Gregory L. Wilde

22 Gregory L. Wilde (Bar No. 4417)

23 212 S. Jones Blvd.

24 Las Vegas, Nevada 89107

Phone: (702)258-8200

Fax: (702)258-8787



Entered on Docket
October 21, 2010

Hon. Bruce A. Markell
United States Bankruptcy Judge

RONALD H. REYNOLDS, ESQ.
Nevada Bar #000827
REYNOLDS & ASSOCIATES
823 Las Vegas Boulevard South, Suite 280
Las Vegas, Nevada 89101
Telephone: (702) 445-7000
paula@reynoldslawyers.com
Fax: (702) 385-7743
Local Counsel

PROBER & RAPHAEL, A LAW CORPORATION
P. O. Box 4365
Woodland Hills, California 91365-4365
(818) 227-0100
C.094-8054
Attorneys for Secured Creditor

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA, LAS VEGAS DIVISION

In re) BK-S-09-29123-BAM
MELANI SCHULTE and) Chapter 11
WILLIAM R. SCHULTE,)
) Jointly Administered with:
2704 SATTLEY LLC,) 09-27238-BAM
HOT ENDEAVOR LLC,) 09-27909-BAM
CHERISH LLC,) 09-28513-BAM
SABRERCO INC.,) 09-31584-BAM
KEEP SAFE LLC,) 09-31585-BAM
5218 MISTY MORNING LLC) 09-27916-BAM
)
) Hearing -
) Date : October 5, 2010
) Time : 9:00 a.m.
)

AGREED ORDER RESOLVING OPPOSITION TO DEBTORS' MOTION TO VALUE
COLLATERAL, "STRIP OFF" AND MODIFY RIGHTS OF UNSECURED CREDITORS

1 **PURSUANT TO 11 U.S.C. §506(A) AND §1123 FOR THE REAL PROPERTY LOCATED**
 2 **AT 1701 EMPIRE MINE DRIVE, HENDERSON, NEVADA 89014**

3 BAC Home Loans Servicing, LP servicing agent on behalf of The Bank of New York
 4 Mellon fka The Bank of New York as trustee on behalf of the Certificateholders CWALT, Inc.
 5 Alternative Loan Trust 2004-36CB Mortgage Pass Through Certificates, Series 2004-36CB, its
 6 assignees and/or successors in interest, Secured Creditor, submits herein its Agreed Order
 7 Resolving Opposition to Debtor's Motion to Value Collateral, Strip Off and Modify Rights of
 8 Unsecured Creditors Pursuant to 11 U.S.C. §506(A) and §1123 for the Real Property Located at
 9 1701 Empire Mine Drive, Henderson, Nevada 89014.

10 The Court after careful review of the Court records and files and agreement by the parties,
 11 makes its Order as follows:

12 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Debtors shall maintain
 13 the regular amortized monthly payments of \$441.76 at 5.25% over 30 years for the total loan
 14 amount of \$80,000.00 on Secured Creditor's loan obligation, encumbering the subject Property,
 15 generally described as 1701 Empire Mine Drive , Henderson , NEVADA 89014, in a timely
 16 fashion, commencing with the November 1, 2010 payment. Payments on Secured Creditor's loan
 17 obligation shall be made to Secured Creditor BAC Home Loans Servicing, LP, Mail Stop: TX2-
 18 982-03-03, 7105 Corporate Drive, Plano, Texas 75024.

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Debtors shall maintain
 20 insurance on the subject property, naming Secured Creditor as loss payee as well as maintain the
 21 property taxes on the subject property

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if the Debtors fails to
 23 maintain the regular monthly payments on Secured Creditor's Trust Deed obligation, allowing the
 24 normal grace period, or fails to maintain the property taxes or insurance, then Secured Creditor may
 25 file and serve upon Debtors and Debtors' counsel, a Fifteen (15) Day Notice Declaration Re Breach
 26 of Condition. For each such Declaration Re Breach of Condition filed, there shall be an assessed
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1 attorneys' fee of \$100.00, to be paid directly to Secured Creditor's counsel Prober & Raphael, A
2 Law Corporation, PO Box 4365, Woodland Hills, CA 91365-4365) upon reinstatement. If upon
3 the sixteenth (16th) day Debtors have failed to cure the delinquency which must include said
4 \$100.00 in attorneys' fees, then Secured Creditor may submit to this Court an Affidavit of Default
5 with an Order vacating the automatic stay as to Secured Creditor, and Secured Creditor may
6 thereafter proceed with foreclosure proceedings upon the subject Property, pursuant to applicable
7 state law, and take any action necessary to obtain complete possession thereof.
8

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event the instant
10 bankruptcy proceeding is dismissed, this Order shall be terminated and have no further force or
11 effect.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any funds received by
13 Secured Creditor, which are subsequently returned for non-sufficient funds, including funds
14 received and applied prior to the terms of this Order, shall be subject to the default provisions
15 contained herein.

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the terms and conditions
17 of this Stipulation may not be modified, altered or changed in any Chapter 11 Plan for
18 Reorganization without the express written consent of Secured Creditor.
19

20 Submitted By:
21

22 REYNOLDS & ASSOCIATES, LLC
23

24 By: /s/ Ronald H. Reynolds

25 RONALD H. REYNOLDS, ESQ.

26 Nevada Bar #000827

27 823 Las Vegas Boulevard South, Suite 280

Las Vegas, NV 89101

28 Local Counsel for Secured Creditor

1 APPROVED/DISAPPROVED:

2 THE SCHWARTZ LAW FIRM, INC.

3
4 By: /s/ Bryan A. Lindsey
5 BRYAN A. LINDSEY, ESQ.
6 Attorney for Debtor

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POST-CONFIRMATION PAYMENT HISTORY OF
MELANI SCHULTE and WILLIAM R SCHULTE
Bk. No. 09-29123-btb
Case Filed: 10/11/2009

Date Received:	Amount Received:	Applied Post-Petition to (Principle & Interest Only):
12/05/2010	\$441.76	11/01/2010
01/03/2011	\$441.76	12/01/2010
01/28/2011	\$441.76	01/01/2011
03/17/2011	\$441.76	02/01/2011
04/18/2011	\$441.76	03/01/2011
05/13/2011	\$441.76	04/01/2011
06/13/2011	\$441.76	05/01/2011
07/15/2011	\$441.76	06/01/2011
08/16/2011	\$441.76	07/01/2011
09/15/2011	\$441.76	08/01/2011
10/19/2011	\$441.76	09/01/2011
11/16/2011	\$441.76	10/01/2011
12/15/2011	\$441.76	11/01/2011
01/18/2012	\$441.76	12/01/2011
02/17/2012	\$441.76	01/01/2012
03/21/2012	\$441.76	02/01/2012
05/17/2012	\$441.76	03/01/2012
06/21/2012	\$441.76	04/01/2012
07/06/2012	\$441.76	05/01/2012
08/09/2012	\$441.76	06/01/2012
09/13/2012	\$441.76	07/01/2012
11/09/2012	\$441.76	08/01/2012
12/14/2012	\$441.76	09/01/2012
03/07/2013	\$441.76	10/01/2012

Exhibit "B"

03/28/2013	\$441.76	11/01/2012
05/22/2013	\$441.76	12/01/2012
05/22/2013	\$441.76	01/01/2013
07/05/2013	\$441.76	02/01/2013
07/31/2013	\$441.76	03/01/2013
08/28/2013	\$441.76	04/01/2013
10/01/2013	\$441.76	05/01/2013
11/04/2013	\$441.76	06/01/2013
12/09/2013	\$441.76	07/01/2013
03/27/2014	\$441.76	08/01/2013
08/01/2014	\$441.76	09/01/2013
08/12/2014	\$441.76	10/01/2013
10/15/2014	\$441.76	11/01/2013
11/07/2014	\$441.76	12/01/2013
12/16/2014	\$441.76	01/01/2014
12/16/2014	\$441.76	02/01/2014
01/13/2015	\$441.76	03/01/2014
04/02/2015	\$441.76	04/01/2014
04/02/2015	\$441.76	05/01/2014
05/12/2015	\$441.76	06/01/2014
06/09/2015	\$441.76	07/01/2014
07/08/2015	\$441.76	08/01/2014
08/17/2015	\$441.76	09/01/2014
09/11/2015	\$441.76	10/01/2014
10/14/2015	\$441.76	11/01/2014
11/05/2015	\$441.76	12/01/2014
03/14/2016	\$441.76	01/01/2015
03/14/2016	\$441.76	02/01/2015

*Debtors are currently due and owing for a total of **thirty (30)** monthly *principal and interest payments* for the months of **March 2015** through and including **August 2017** in the amount of

\$441.76 each, for a total of \$13,252.80.

**Bayview has made the following advancements towards taxes and insurance since the November 1, 2010:

12/21/2010	\$241.20	Taxes
02/24/2011	\$241.20	Taxes
04/21/2011	\$106.00	Insurance
05/10/2011	\$106.00	Insurance
07/18/2011	\$372.00	Insurance
07/28/2011	\$191.58	Taxes
08/03/2011	\$36.00	Insurance
09/01/2011	< \$72.00 >	Insurance - Credit
09/21/2011	\$191.15	Taxes
10/20/2011	\$328.00	Insurance
11/18/2011	< \$328.00 >	Insurance - Credit
12/15/2011	\$191.15	Taxes
02/22/2012	\$191.15	Taxes
07/11/2012	\$372.00	Insurance
07/30/2012	\$145.76	Taxes
09/24/2012	\$145.43	Taxes
12/05/2012	\$145.43	Taxes
02/12/2013	\$145.43	Taxes
07/11/2013	\$372.00	Insurance
07/30/2013	\$154.91	Taxes
09/26/2013	\$154.45	Taxes
12/11/2013	\$154.45	Taxes
02/06/2014	\$154.45	Taxes
07/14/2014	\$384.00	Insurance
07/29/2014	\$156.59	Taxes
09/17/2014	\$156.09	Taxes
12/15/2014	\$156.09	Taxes
02/09/2015	\$156.09	Taxes
07/15/2015	\$386.00	Insurance
08/06/2015	\$161.74	Taxes
09/15/2015	\$161.08	Taxes
12/16/2015	\$161.08	Taxes
02/10/2016	\$161.08	Taxes
07/15/2016	\$400.00	Insurance

Total Escrow Advances: **\$6,179.58**

***Debtors are currently due and owing for a total of **\$19,432.38**, which includes **\$13,252.80** in missed monthly *principal and interest* payments, and **\$6,179.58** in escrow advances.

TIFFANY & BOSCO, P.A.

Gregory L. Wilde, Esq.
Nevada Bar No. 004417
212 South Jones Boulevard
Las Vegas, Nevada 89107
Telephone: 702 258-8200
Fax: 702 258-8787
nybk@tblaw.com

Attorney for Movant,

BAYVIEW LOAN SERVICING, LLC, servicing agent for
The Bank of New York Mellon, as Trustee on Behalf of the
Certificateholders CWALT, Inc. Alternative Loan Trust
2004-36CB Mortgage Pass-Through Certificates, Series 2004-36CB

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In Re:

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09-31584-BAM
09-31585-BAM

[Jointly Administered Under Case No. 09-29123-
btb]

Chapter 11

Debtors

Honorable Mike K. Nakagawa

CERTIFICATE OF MAILING

1. On August 15, 2017, I served the following document:

1 *Notice Re: Breach And Failure To Comply With Terms Of Confirmed Plan And Agreed Order Resolving*
2 *Opposition To Debtors' Motion To Value Collateral, "Strip Off" And Modify Rights Of Unsecured*
3 *Creditors Pursuant To 11 U.S.C. §506(A) And §1123 For The Real Property Located At 1701 Empire*
4 *Mine Drive, Henderson, Nevada 89014*

5 2. I served the above-named document by the following means to the persons as listed below:

6 **a. ECF System** (*You must attach the "Notice of Electronic Filing", or list all persons and*
addresses and attach additional paper if necessary)

7 **DANIEL L. MCGOOKEY** - dmcmgokey@mcgoolkeylaw.com

8 **DAVID A RIGGI** - darnvbk@gmail.com, riggilaw2@gmail.com

9 **STEVEN L. YARMY** - sly@stevenyarmylaw.com, admin@consumers-rights.org;
jay@consumers-rights.org; ecfyarmy@gmail.com; dpn@yarmylaw.com

10 **b. United States mail, postage fully prepaid**

11 (*List persons and addresses. Attach additional paper if necessary*)

12 DEBTORS:

13 MELANI SCHULTE

14 WILLIAM R. SCHULTE

15 9811 W. CHARLESTON BLVD. #2-351

16 LAS VEGAS, NV 89117

17 **I declare under penalty of perjury the foregoing is true and correct.**

18 Signed on (*date*): August 15, 2017

19 **By:** /s/ Rachele McDaniel